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A Paper Tiger? An Examination of the International Religious Freedom Act's Impact on Christianity in China

BY BETTY L. WONG*

Introduction

More Christians have died in this century alone for their faith "than in the first nineteen centuries after the birth of Christ."¹ Many such believers have endured religious persecution in China, one of the most active oppressors of Christianity.² Yet, the United States, while spearheading other global humanitarian efforts, largely either has failed to recognize or simply has ignored the plight of Christians in China³ until recently.⁴

On October 27, 1998, former President Clinton signed into law the International Religious Freedom Act ("IRFA").⁵ IRFA created a commission to monitor worldwide religious persecution.⁶ It also

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1. NINA SHEA, *IN THE LION'S DEN* 1 (1997).

2. *Id.*

3. *Id.* at 6. In 1996, to prepare U.S. Ambassador Jim Sasser for his diplomatic post in China, the State Department briefed him on the oppression of Tibetan Buddhists. However, it neglected to advise him on the one hundred million Christians who faced persecution daily for worshipping in underground churches. Though the State Department's omission may be open to interpretation, it at least implicitly invalidates Christian persecution as compared to other persecuted groups.

4. BUREAU FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, *ANN. REP. ON RELIGIOUS FREEDOM* (1999) [hereinafter *DEP'T OF STATE 1999 REPORT*].

5. *Id.*

6. International Religious Freedom Act of 1998, Pub. L. No. 105-292, 112 Stat. 2787 (codified at 22 U.S.C. § 6415) (1998) [hereinafter *IRFA*].

proscribed a list of actions that the commission could recommend via report to the State Department and the President to expand religious freedom in countries where the United States has diplomatic ties.⁷

In addition to requiring the State Department to issue an annual report on the persecution of major faiths worldwide,⁸ Congress also has chosen to study Christians in particular.⁹ As such, this paper will focus primarily on the religious persecution of Christians in China. This Note will begin by briefly tracing the history of Christian persecution in China. This Note will then discuss and comment on the U.S. response, namely the enactment of IRFA, to this crisis. The effectiveness of the options posed under IRFA will be evaluated by comparing the proposed action with past attempts at improving human rights. Finally, this Note will conclude by determining which measures would be most productive in encouraging China to honor religious freedom for both Christians and other people of faith.

I. History and Justification for Anti-Christian Sentiment in China

Chinese hostility towards Christianity goes back several centuries.¹⁰ Catholic missionaries from Europe first introduced this "Western" faith to China in the 1500s.¹¹ However, as contact between China and the Western world increased, hostility towards Christianity also grew.¹²

China had suffered terribly at the hands of Westerners.¹³ Europe had introduced opium to China in the 1800s, which had the debilitating effect of reducing Chinese laborers to drug addicts.¹⁴ To rid itself of such European influence, China fought and lost the Opium War at great expense.¹⁵ The Treaty of Nanking, which

7. *Id.* § 405(a).

8. *Id.* § 203(a).

9. BUREAU FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, U.S. POLICIES IN SUPPORT OF RELIGIOUS FREEDOM: FOCUS ON CHRISTIANS (1997).

10. Bruce Kennedy, *China's New Spirituality*, at <http://www8.cnn.com/SPECIALS/1999/china.50/dispatches/09.20.spirituality/index.html> (last visited Oct. 1, 2001).

11. *Id.*

12. *Id.*

13. LYNN PAN, *SONS OF THE YELLOW EMPEROR: A HISTORY OF THE CHINESE DIASPORA* 43-57 (1994).

14. *See id.* at 43-44.

15. *See id.*

concluded the War, forcibly opened Chinese ports to trade.¹⁶ Pursuant to the terms of the treaty, China ceded Hong Kong to Great Britain for ninety-nine years.¹⁷ Decades after the Opium War, a Chinese man who claimed to be Jesus Christ's younger brother spearheaded the Tai Ping Rebellion, which led to much bloodshed in China.¹⁸ The accumulation of anti-Christian/anti-Western sentiment climaxed in the Boxer Rebellion of 1900.¹⁹ The Boxers, a mystical sect of martial arts practitioners, regularly attacked Christian missionaries in efforts to cleanse China of all foreign influence.²⁰ The Boxer Rebellion was eventually squashed.²¹

Ironically, China's first president, Dr. Sun Yat-sen, and his successor, Chiang Kai-shek, were both Christians.²² Christianity thrived²³ until China fell into Communist hands in 1949.²⁴ The Communists believed that religion served as a Western brainwashing tool used to infiltrate Chinese thought and undermine national unity.²⁵ Consequently, as China remains Communist to this day, Christians have endured persecution at varying intensities over the years.²⁶ As China continues to equate Christianity with the West, Christians have become the perfect "scapegoats for societies that aim to vent, foment, and popularize hatred of the West."²⁷

II. Current State of Christianity in China

China currently implements its religious policies through the

16. *Id.*

17. *See id.* at 44.

18. *See id.*; *see also* Kennedy, *supra* note 10.

19. *See* Kennedy, *supra* note 10.

20. *Id.*

21. *Id.*

22. PAN, *supra* note 13, at 126; *see also* Kennedy, *supra* note 10.

23. *See Hearings on Religious Persecution in China Before U.S. Comm'n on Int'l Religious Freedom* (Mar. 16, 2000) [hereinafter *Hearings*] (statement of Xiqui (Bob) Fu, House-Church Leader), at http://www.uscirf.gov/hearings/16mar00/bob_Fu.php3 (last visited Oct. 1, 2001).

24. *See id.*; *see also* Kennedy, *supra* note 10.

25. *See Hearings, supra* note 23 (statement of Mickey Spiegel, Specialist on Religious Freedom Issues, Human Rights Watch), at http://www.uscirf.gov/hearings/16mar00/mickey_spiegel.php3 (last visited Oct. 1, 2001).

26. *See Hearings, supra* note 23 (statement of Xiqui (Bob) Fu, House-Church Leader), at http://www.uscirf.gov/hearings/16mar00/bob_Fu.php3 (last visited Oct. 1, 2001).

27. SHEA, *supra* note 1, at 5.

Religious Affairs Bureau ("RAB"), an agency formed under the Department for a United Front which, in turn, answers to the Central Committee of the Chinese Communist Party ("CCP").²⁸ The RAB oversees and controls all Christian churches through the framework of the Three-Self Patriotic Movement ("TSPM").²⁹ The Three-Self policy, central to TSPM, dictates that all religious organizations become self-administering, self-supporting, and self-propagating.³⁰ This policy aims to remove foreign influence from religious organizations in China.³¹

While the self-sufficiency model may sound attractive initially, it conflicts with the Christian doctrine which proclaims that all believers, regardless of physical boundaries, belong to the body of Christ.³² As Chinese churches experience revival from fifty years of Communist rule, isolation from the international Christian community deprives them of much-needed theological training³³ and financial support.³⁴

Although China now permits Bible printing,³⁵ and even has state-sanctioned churches where Protestants and Catholics may worship,³⁶ Beijing continues to monitor and control the propagation of Christianity through registration.³⁷ Registration means that a congregation agrees to have its independence curtailed in both administrative and substantive matters.³⁸ It licenses the government to select clergy, supervise a church's financial affairs, veto building programs, scrutinize the content of sermons and distribution of religious materials, and restrict or limit activities such as education and social welfare projects.³⁹

28. *Id.* at 59.

29. *Id.*

30. HUMAN RIGHTS WATCH/ASIA, CHINA: STATE CONTROL OF RELIGION 13 (1997).

31. *Id.* at 13-14.

32. 1 *Corinthians* 12:12-31.

33. See, e.g., Daniel Kwan, *Early Freedom for Bible Man*, S. CHINA MORNING POST, Mar. 11, 1994, at 12, available at LEXIS, News Library.

34. See BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, 2000 ANN. REP. ON INT'L RELIGIOUS FREEDOM: CHINA (2000) [hereinafter DEP'T OF STATE 2000 REPORT].

35. See *id.*

36. See BUREAU FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, *supra* note 9.

37. HUMAN RIGHTS WATCH/ASIA, *supra* note 30, at 17.

38. *Id.* at 18.

39. *Id.*

Registration further empowers authorities to shape church membership. For example, the government has forbidden the church from proselytizing to minors under eighteen years of age.⁴⁰ As the government perceives children as the "future torch-bearers of [the] Communist revolution," it desires to inculcate minors in dialectical materialism (atheism) as the correct worldview.⁴¹ Hence, sustaining a congregation becomes increasingly difficult, as a church may lack the membership from within to raise and train a new generation of leadership.⁴² Also, RAB officials have access to membership rolls upon demand.⁴³ The lack of anonymity may be potentially dangerous should China decide to end all tolerance towards religion.

Beijing may even intervene in matters as intimate as baptism.⁴⁴ To become eligible for baptism into the official state-sponsored church, a candidate must complete a form in triplicate, attach photos, and submit it to the government.⁴⁵ One application goes to the RAB, one to the relevant patriotic association, and the remaining one to the candidate's work unit.⁴⁶ If any of these three groups objects, the person may not receive baptism.⁴⁷ Penalties for violating ordinances governing religious activity range from cease and desist orders, to registration revocation and confiscation of facilities,⁴⁸ to fines running between 500 renminbi (approximately US\$70) to 50,000 renminbi (approximately US\$7,000).⁴⁹

As intrusive as registration is for the state-sponsored church, the "unofficial" church, also known as the house/underground church where possibly seventy million or more Christians worship,⁵⁰ suffers more intense persecution because it refuses to register with the government.⁵¹ House church attendees believe that registration

40. *Id.*

41. *Hearings, supra* note 23 (prepared statement of Reverend Dr. Kim-Kwong Chan, Hong Kong Christian Council), at <http://www.uscirf.gov/hearings/16mar00/chanPT.php3> (last visited Oct. 1, 2001).

42. DEP'T OF STATE 2000 REPORT, *supra* note 34.

43. HUMAN RIGHTS WATCH/ASIA, *supra* note 30, at 18.

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

48. See Louis Won, *Rights Group in Call on Religious Persecution*, S. CHINA MORNING POST, Jan. 14, 1994, at 9.

49. HUMAN RIGHTS WATCH/ASIA, *supra* note 30, at 20-21.

50. See DEP'T OF STATE 2000 REPORT, *supra* note 34.

51. See *id.*

would compromise their faith by giving ultimate authority to the state rather than to God.⁵²

Because house churches operate contrary to TSPM policy, Beijing deems such churches illegal and cracks down on them.⁵³ In April 1996, local police shut down over three hundred house churches in Shanghai alone.⁵⁴ Similarly, from February to June 1996, police in Zhejiang province destroyed at least fifteen thousand unregistered temples, churches, and tombs.⁵⁵ During that same period, the government arrested, detained, and imprisoned five evangelical women in Xinjiang province after raiding a house church.⁵⁶ Police severely beat several of the Christians at that church, knocked out one woman's front teeth, and poured scalding hot water on others who resisted orders.⁵⁷ These examples typify the sort of treatment that many Christians in the underground church endure daily because of their faith.⁵⁸

The persecution has intensified recently with the passage of the "law against cults" on October 30, 1999, by the National People's Congress of China.⁵⁹ This legislation mandates government officials to mobilize their respective communities to eliminate evil cults from Chinese society.⁶⁰ The "law against cults" defines a cult as "an illegal organization that use[s] religions, qigong (a form of meditative exercise), or other forms to deify their leaders, to spread superstitions and heresy to misguide and cheat others, to recruit and control

52. See *Hearings*, *supra* note 23 (statement of Xiqui (Bob) Fu, House-Church Leader), at http://www.uscinfo.gov/hearings/16mar00/bob_Fu.php3 (last visited Oct. 1, 2001).

53. *Id.*

54. SHEA, *supra* note 1, at 60.

55. *Id.* at 61.

56. *Id.* at 61-62.

57. *Id.*

58. See, e.g., Daniel Kwan, *Religious Persecution "Stepped Up,"* S. CHINA MORNING POST, Dec. 24, 1993, at 7, available at LEXIS, News Library; see also Mark McSherry & Elaine Chan, *Christian Torture in China Shocks Patten*, S. CHINA MORNING POST, July 25, 1993, at 4, available at LEXIS, News Library; see also Chris Yeung & Daniel Kwan, *Police Detain 100 in Persecution Cover-up*, S. CHINA MORNING POST, May 7, 1993, at 1, available at LEXIS, News Library.

59. *Hearings*, *supra* note 23 (prepared statement of Frank Lu Si Qing, Director of Hong Kong-based Information Center for Human Rights and Democratic Movements in China and former political prisoner), at <http://www.uscinfo.gov/hearings/16mar00/frankLuPT.php3> (last visited Oct. 1, 2001).

60. *Id.*

members, and to endanger society.”⁶¹ The ambiguous definition of what constitutes a cult accords government officials tremendous discretion in determining who has violated this particular law.⁶² Already, the CCP has enforced this law against several Christian groups,⁶³ sentencing “violators” to labor camps, which are comparable to prisons, for years.⁶⁴ Congress enacted IRFA against this backdrop.⁶⁵

III. U.S. Response: The International Religious Freedom Act

On October 27, 1998, President Clinton signed IRFA into law.⁶⁶ IRFA consists primarily of three components.⁶⁷ First, it requires an annual report on the state of international religious freedom during the past year.⁶⁸ Second, IRFA establishes a new position, the Ambassador at Large, who will chair a newly created agency called the Office on International Religious Freedom.⁶⁹ The Ambassador at Large’s role is to advise the President and the Secretary of State on

61. *Id.*

62. *Id.*

63. *Id.* Christian groups include the China Evangelistic Fellowship, China Fang-Cheng Group, Quan-fan-wei (Total Scope Church), Huhan (the Shouters) Sect, Met-tu (Disciples) Sect, San-ban-pu-ren (Three Shifts of Servants) Sect, Bei-Li-Wang (Established King) Sect, Dong Fang Shan Dian (Eastern Lightning) Sect, Zhu-Shen (Supreme Spirit) Sect, Ling-Ling Sect, Xin-Yue Jiao Hui (New Testament Church), Jue (Absolute) Sect, Leng-Shui (Cold Water) Sect, and the Blood Water and Sacred Spirit Bless Preaching Group. The membership of these Christian organizations altogether number about five million.

64. *Id.*

65. See IRFA § 2(a)(4). Congress found that:

The right to freedom of religion is under renewed and, in some cases, increasing assault in many countries around the world. More than one-half of the world’s population lives under regimes that severely restrict or prohibit the freedom of their citizens to study, believe, observe, and freely practice the religious faith of their choice. Religious believers and communities suffer both government-sponsored and government-tolerated violations of their rights to religious freedom. Among the many forms of such violations are state-sponsored slander campaigns, confiscations of property, surveillance by security police, including by special divisions of “religious police”, severe prohibitions against construction and repair of places of worship, denial of the right to assemble and relegation of religious communities to illegal status through arbitrary registration laws, prohibitions against the pursuit of education or public office, and prohibitions against publishing, distributing, or possessing religious literature and materials.

66. See DEP’T OF STATE 1999 REPORT, *supra* note 4.

67. *Id.*

68. *Id.*

69. *Id.*

the best measures available under IRFA to deal with nations that violate religious freedom.⁷⁰ Lastly, the Act creates the Commission on International Religious Freedom (the "Commission").⁷¹ The Commission consists of the Ambassador at Large, who serves as an ex officio member, and nine U.S. citizens, primarily academics who are recognized experts on religion.⁷² The Commission annually reviews the state of religious freedom worldwide and makes policy recommendations to the President, the Secretary of State, and Congress.⁷³ It must issue a report on religious freedom every year by May 1st.⁷⁴ The State Department considers the Commission's recommendations and each September, must issue an annual report on religious freedom that will help shape U.S. foreign policy.⁷⁵

The Act provides for fifteen remedial actions that the Ambassador at Large may recommend to the President and the Secretary of State in dealing with countries that suppress religious freedom.⁷⁶ Alternatively, the President may bypass the suggestions altogether if his actions would be commensurate with the recommendations and would further U.S. policy under IRFA.⁷⁷ However, in so doing, he must report and justify his actions to the appropriate congressional committees.⁷⁸ The President's primary objective is to negotiate and enter into binding agreements with foreign governments that obligate those governments to cease or phase-out any policy or practice that violates religious freedom.⁷⁹

A. *Evaluation of IRFA*

The following is the list of fifteen actions that the Ambassador at Large may recommend to the President and Secretary of State in dealing with countries that violate religious freedom.⁸⁰ Generally, each action is addressed under a separate heading. However, similar provisions have been grouped together, such as those calling for

70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.*

75. *Id.*

76. IRFA § 405(a).

77. *Id.* § 405(b).

78. *Id.*

79. *Id.* § 405(c).

80. *Id.* § 405(a).

economic sanctions, where the same arguments would apply for each individual provision.

Option 1: Public Demarche

An official public demarche likely will not deter China from persecuting Christians. In 1993, under similar circumstances involving oppression in Tibet, the European Community ("EC") issued a demarche criticizing China's human rights record in Tibet.⁸¹ The demarche accomplished nothing.⁸² Instead, it provoked a formal protest from China.⁸³ The only aspect of the demarche that might have alarmed China was that for the first time, all EC countries uniformly voiced their displeasure for Chinese rule in Tibet.⁸⁴

While a demarche from the United States may have greater impact on China, it likely will be ineffectual because China does not respond well to human rights criticism. For example, after the Commission released the 2000 Annual Report on Religious Freedom, condemning China as one of the worst oppressors of religion, China immediately reacted by claiming that Christians there "have never had it so good."⁸⁵ In addition, Chinese government officials defended their record on imprisoning Christians, arguing that the state incarcerates Protestants because they have broken the law, not because of their beliefs. Further, they accused foreign missionaries of exaggerating the number of individuals persecuted.⁸⁶

Option 2: Private Demarche

If the embarrassment resulting from a public demarche fails to inspire change and instead, provokes Chinese retaliation, a private demarche will only be a diplomatic slap on the wrist and will surely accomplish nothing. Since a private demarche would happen quietly, the lack of exposure would preclude public accountability.

81. Jonathan Mirsky, *EC Envoys Express Concern on Tibet*, THE TIMES, June 3, 1993, at Overseas News Section.

82. *Id.* The demarche's ineffectiveness may have been partly attributable to the fact that the demarche was only four paragraphs long and was contained within a 50-page report. Further, the EC did not specify any repercussions for China if persecution should continue in Tibet.

83. *Id.*

84. *China's Official Protestant Church Leader Refutes Repression Claims*, WORLD NEWS CONNECTION, WORLD REP., Sept. 21, 2000, available at 2000 WL 26946947.

85. *Id.*

86. *Id.*

On the other hand, a private demarche as a form of private condemnation may be a better alternative to a public demarche.⁸⁷ Observers, including the Dalai Lama, have acknowledged that a "gentler policy of dialogue" on human rights⁸⁸ and "quiet diplomacy" works better than any form of public condemnation.⁸⁹ The Commission also previously has agreed with this strategy.⁹⁰ Public condemnation may be "counterproductive,"⁹¹ making it "more difficult" for the Chinese leadership to make concessions.⁹² Indeed, the United States and its allies have taken this route in recent years, abandoning their "campaign to draw attention to China's human rights record."⁹³ Nevertheless, this strategy's effectiveness remains questionable, especially when considering that China still does not honor religious freedom despite the many attempts at quiet diplomacy.⁹⁴

Option 3: Public Condemnation

Public condemnation aside from a public demarche likely will yield similarly ineffective results. China will protest any U.S. attempt to condemn China publicly. In March 1999, when the United States contemplated submitting a resolution criticizing China's human rights record to the United Nations Human Rights Commission in Geneva, Chinese Foreign Minister Tang Jiaxuan warned that "such 'confrontation' would not solve the problem."⁹⁵ Furthermore, the United States would likely receive little or no support for public condemnation of China from the American business community, as the latter prefers not to mix business and human rights together.⁹⁶ The business community would prefer to maintain a good relationship with China, and not to jeopardize that tie by supporting

87. DEP'T OF STATE 1999 REPORT, *supra* note 4.

88. Shada Islam, *Patten: EU Foreign Policy to Focus on Human Rights*, BUS. TIMES (Sing.), Sept. 3, 1999, at 13.

89. *So, What About China?*, INT'L HERALD TRIB. (Neuilly-sur-Seine, Fr.), Dec. 24, 1998, at 6.

90. *See* DEP'T OF STATE 1999 REPORT, *supra* note 4.

91. Islam, *supra* note 88.

92. Robert H. Reid, *Dalai Lama Warns of More Violence; Dialogue with China over Tibet Called Crucial*, THE RECORD (Bergen County, N.J.), May 1, 1998, at A19.

93. *See* INT'L HERALD TRIB., *supra* note 89.

94. *See* DEP'T OF STATE 2000 REPORT, *supra* note 34.

95. *Albright Chides China on Rights Violations*, SEATTLE POST-INTELLIGENCER, Mar. 2, 1999, at A1.

96. *See* Islam, *supra* note 88.

public condemnation of China's abysmal human rights record.⁹⁷

Option 4: Public Condemnation within One or More Multilateral Fora

Public condemnation within one or more multilateral fora may be effective in urging China to honor religious freedom. However, because its execution depends upon the cooperation of other countries, it may take a significant event, such as the Tiananmen Square Massacre, to galvanize international support.

After the Tiananmen Square Massacre in June 1989, where Beijing deployed tanks and troops to crush a democratic student demonstration, European nations denied financial assistance to China in protest. Belgium froze government loans and ceased other financial ventures with China.⁹⁸ Likewise, Italy suspended grants and loans to China.⁹⁹ The EC eventually held a summit and concluded that sanctions such as the abeyance of arms sales, "suspension of high-level contacts, postponement of new cooperation projects, [and] prolongation of visas for Chinese students studying in Europe," were necessary measures to protest China's human rights violations.¹⁰⁰

Unfortunately, it takes a tragedy like Tiananmen Square for international coalition-building to occur. Because the shock has subsided over the years, however, rallying support within the international community now may be difficult if not impossible. Some influential groups within the European Union ("EU") have expressed their dislike of linking business to human rights in China.¹⁰¹ Consequently, it is not likely that they would support any measure that would denounce China's human rights violations, especially if those charges pertain to religious persecution. Moreover, as U.S. policy has moved towards de-linking human rights from trade issues, the international community may just as well follow suit.¹⁰²

97. See, e.g., Matthew W. Cheney, Comment, *Trading with the Dragon: A Critique of the Use of Sanctions by the United States Against China*, 6 J. INT'L L. & PRAC. 1, 23 (1997).

98. *Id.* at 13.

99. Clyde Haberman, *Economic Penalties are Placed on China by Italy and Belgium*, N.Y. TIMES, June 28, 1989, at 11, available at LEXIS, U.S. News Library, Combined Papers File.

100. Alan Riding, *Europeans Adopt New Sanctions Against Chinese*, N.Y. TIMES, June 28, 1989, at A10, available at LEXIS, News Library, Combined Papers File.

101. See Islam, *supra* note 88.

102. See *id.* at 88.

Option 5: The Delay or Cancellation of One or More Scientific Exchanges

It is difficult to determine whether continued scientific exchanges between the United States and China would encourage the latter to embrace religious freedom, as results from these transactions have been mixed. Denial of scientific exchanges between the two nations has either puzzled,¹⁰³ or at worst, angered China.¹⁰⁴

Former President Clinton has claimed that his engagement policy of assisting China with technology has produced desirable results.¹⁰⁵ Among other concessions, Clinton's engagement policy has helped release several prominent Chinese dissidents.¹⁰⁶ While Clinton did not specify which crime(s) China had charged these dissidents with, the fact that China was willing to release them suggests that it might release religious dissidents as well.

However, delaying or canceling scientific exchanges currently will not affect the state of religious freedom in China because such major exchanges are virtually non-existent. Scientific exchanges have cooled since 1999, after the United States discovered that China had planted spies in the United States to acquire nuclear military secrets.¹⁰⁷ The United States also learned that China had sold arms in the past to politically volatile Middle Eastern nations such as Iran and Pakistan.¹⁰⁸ Furthermore, as China has threatened to annex Taiwan into the mainland, the United States fears that China may use American military technology to develop more sophisticated satellites to direct weapons accurately at Taiwan.¹⁰⁹ Seeing as no major scientific exchanges have occurred recently, denying any such exchange would have no effect on religious freedom in China at this time.

103. *See id.*

104. *See, e.g.,* Paul Wiseman, *Meetings with China Contentious: Human Rights, Missile System Cause Friction*, CINCINNATI ENQUIRER, Mar. 2, 1999, at A02, available at LEXIS, News Library, Combined Papers File.

105. John M. Broder, *Clinton Defense Trip to China and Policy of "Engagement,"* N.Y. TIMES, June 12, 1998, at A8, available at LEXIS, News Library, Combined Papers File.

106. *Id.*

107. Ann Scott Tyson, *Surprising Lapses Aided Chinese Espionage*, CHRISTIAN SCI. MONITOR, June 1, 1999, at 2, available at LEXIS, News Library, Combined Papers File.

108. Broder, *supra* note 105; *see also* Cheney, *supra* note 97, at 20.

109. Bates Gill, *A Clearer US-China Picture*, CHRISTIAN SCI. MONITOR, Jan. 20, 1999, at 11, available at LEXIS, News Library, Combined Papers File.

Option 6: The Delay or Cancellation of One or More Cultural Exchanges

In securing greater religious freedom in China, cultural exchanges between the United States and China should increase, rather than suffer delay or cancellation.¹¹⁰ It is one of the most powerful weapons in combating religious persecution. Unlike the other options that have provoked China's ire, China both welcomes and grudgingly accepts that cultural exchanges are necessary, especially as China aspires to become a major player in the global economy. As contact increases both on a national and local scale, ideological transformation is inevitable.¹¹¹ Indeed, the CCP already is "afraid that the normal infiltration of thoughts [and] values would bring about 'peaceful transformation' and be exploited by . . . hostile foreign forces."¹¹²

Cultural exchanges embody activities ranging from tourism, to student, cultural and legislative exchange programs,¹¹³ to mass media imports.¹¹⁴ The influx of tourists impacts China locally, as visitors unwittingly bring their own diverse thoughts, cultures, and lifestyles into the country. U.S. exchange programs expose Chinese students, teachers, and diplomats alike to democratic ideals that they may take back with them to their homeland.¹¹⁵

Cultural exchange manifesting itself in mass media and its icons may also profoundly influence Chinese society. For example, Fred Dryer, the actor who played Sergeant Rick Hunter in the cancelled American television show *Hunter*, has become a hot commodity in

110. *Setting Terms of Engagement*, WASH. TIMES, Apr. 6, 1999, at A16, available at LEXIS, News Library, Combined Papers File.

111. See *Hearings*, *supra* note 23 (prepared statement of Frank Lu Si Qing, Director of Hong Kong-based Information Center for Human Rights and Democratic Movements in China and former political prisoner), at <http://www.uscifr.gov/hearings/16mar00/frankLuPT.php3> (last visited Oct. 1, 2001).

112. *Id.*

113. See *id.*; see also Spencer Abraham, *Bid to Improve China's Conduct*, WASH. TIMES, Oct. 27, 1997, at 14A, available at LEXIS, News Library, Combined Papers File.

114. Robert W. Welkos, *Through His "Hunter" Character, Fred Dryer is One of the Most Popular Actors in China. Now the Beijing Government is Asking Him to Make a Film There that Presents a Strong Anti-drug Message*, L.A. TIMES, Apr. 21, 1999, at F1, available at LEXIS, News Library, Combined Papers File.

115. BUREAU FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, FINAL REPORT OF THE ADVISORY COMMITTEE ON RELIGIOUS FREEDOM ABROAD TO THE SECRETARY OF STATE AND TO THE PRESIDENT OF THE UNITED STATES (1999).

China.¹¹⁶ Although Dryer himself desires to remain apolitical, American media imports such as he, can impact Chinese society through the roles that they play, the ideas that they expound, and how they represent themselves to the Chinese media. Indeed, the Chinese also have recognized the power of such influence, as they have asked Dryer to make a feature length film in their country as part of their anti-drug campaign.¹¹⁷ If people pay attention to individuals like Dryer when he discusses the danger of drugs, they also may listen to similarly situated media icons when they discuss concepts of religious freedom and democracy.

The Internet is another form of mass media that has impacted China greatly. Since 1999, the Internet quickly has become "a source of news in China" with at least two million subscribers and users increasing at a rate of forty percent a year.¹¹⁸ The world-wide web has enabled the Chinese to have greater access to information, as Internet service providers have become bolder in providing both domestic and international news to their readers.¹¹⁹

Further, as the CCP unsuccessfully struggles with regulating Internet content, it also eventually may relinquish control over currently censored broadcasts such as Radio Free Asia and Voice of America.¹²⁰ As mass media imports become more readily available to the Chinese populace, the greater infusion of ideas may give way eventually to religious freedom.

*Options 7 and 8: Denial or Delay of One or More Working,
Official, or State Visits*

Denial or delay of one or more working, official, or state visits generally provides a "tremendous source of leverage [for the United States in dealing] with the Chinese Government."¹²¹ This is because China attaches both material and symbolic value to an American President's official visit. Consequently, the United States may take advantage of this tactic and use it as a bargaining chip in securing religious freedom for Chinese citizenry.¹²² As to material benefit, an

116. Welkos, *supra* note 114.

117. *Id.*

118. Craig S. Smith, *Online: In China, a Thousand News Stories Bloom on the Web*, WALL ST. J., Jan. 18, 1999, available at 1999 WL-WSJ 5437120.

119. *Id.*

120. Abraham, *supra* note 113.

121. Broder, *supra* note 105.

122. *Id.*

official visit accords China an opportunity to influence U.S. diplomats to renew its "Most Favored Nation" trading status annually. Furthermore, China needs the United States to gain membership into the World Trade Organization. As a symbol, an American presidential visit to China connotes mutual acceptance and recognition of common goals between the two nations.¹²³ It signals to China and abroad that the United States will endorse cooperation with Beijing despite the country's many human rights violations.¹²⁴ Conversely, a denial of an official visit coupled with a public explanation regarding the refusal, "show[s] . . . displeasure for China's internal policies."¹²⁵

Nevertheless, this option's potency appears to have diminished recently.¹²⁶ Commencing in May 1999, the CCP has suspended the official United States-China bilateral human rights dialogue.¹²⁷ The suspension has curbed the U.S. government's ability to voice concerns about religious freedom to Chinese officials.¹²⁸ Further, Chinese authorities have even denied granting meetings to U.S. embassy officials who desire to discuss human rights and religious freedom issues.¹²⁹

However, even if denying or delaying an official state visit would impact religious freedom in China, recent administrations have not, and likely will not, employ this strategy. In June 1998, former President Clinton became the first U.S. President to visit China since the Tiananmen Square Massacre in June 1989.¹³⁰ In response to a critical Congress which desired to dissuade him from visiting China, Clinton replied, "[s]eeking to isolate China will not . . . open one more church to those who wish to worship [W]e can influence [China by] . . . working with China where we can, dealing directly with our differences where we must."¹³¹ Given that newly-elected President Bush supports permanent trade relations with China, he

123. *Id.*

124. *Id.*

125. John M. Broder, *Clinton Defends Trips, China Policy; Says Approach is "Pragmatic,"* COM. APPEAL, June 12, 1998, at A1, available at LEXIS, News Library, Combined Papers File.

126. DEP'T OF STATE 2000 REPORT, *supra* note 34.

127. *See id.*

128. *See id.*

129. *See id.*

130. *See id.*

131. *See id.*

likely will follow former President Clinton's approach with respect to continuing official state visits.¹³²

Option 9: Withdrawal, Limitation, or Suspension of U.S.

Development Assistance in Accordance with Section 116 of the Foreign Assistance Act of 1961

Section 116 of the Foreign Assistance Act of 1961 (the "Foreign Assistance Act"), now codified at 22 U.S.C.A. § 2151n, authorizes the United States to deny humanitarian assistance to countries that engage in "a consistent pattern of gross violations of internationally recognized human rights."¹³³ The Foreign Assistance Act directs the Ambassador at Large to offer input in assisting the appropriate committee to determine which countries have flagrantly disregarded human rights, thereby becoming ineligible for American aid.¹³⁴

As of the writing of this Note, this author's research has produced no recent circumstances under which the U.S. government, excluding private American charitable organizations, has offered humanitarian aid to China. Furthermore, while the United States recently has suspended monetary assistance to China under another section of the Foreign Assistance Act, it has not done so under section 116. Consequently, U.S. denial of humanitarian assistance to China would not expand religious freedom because China has not recently relied on U.S. governmental aid in resolving national emergencies. At best, the United States may voice its concern over religious freedom in China by voting against aid to China in international fora such as the United Nations. However, by and of itself, the United States can do very little under section 116 of the Foreign Assistance Act to stay religious persecution in China.

Option 11: Withdrawal, Limitation, or Suspension of U.S. Security Assistance in Accordance with Section 502(B) of the Foreign Assistance Act of 1961

Similar to the provisions of section 116 of the Foreign Assistance Act, section 502 (B) directs the Ambassador at Large to offer input to the Secretary of State in determining which countries have

132. Ron Hutcheson, *Bush Agrees with Gore on Trade Relations with Chinese*, *FORT WORTH STAR-TELEGRAM*, May 18, 2000, at 17, available at 2000 WL 5009022.

133. 22 U.S.C.A. § 2151n(a) (2000).

134. 22 U.S.C.A. § 2151n(c).

disregarded religious freedom.¹³⁵ "To promote and encourage increased respect for human rights . . . throughout the world," section 502(B) of the Foreign Assistance Act, now codified at 22 U.S.C.A. § 2304, states that the United States will deny security assistance "to any country . . . which engages in a consistent pattern of gross violations of internationally recognized human rights."¹³⁶ Specifically, denial of security assistance includes refusing military education and training,¹³⁷ antiterrorism assistance,¹³⁸ sales of defense articles or services,¹³⁹ and licenses for the export of those same articles to armed forces, police and other internal security forces.¹⁴⁰

As of the writing of this Note, this author's research has produced no recent circumstances under which the U.S. government, not private American corporations, has offered security assistance to China subject to section 502(B) of the Foreign Assistance Act. Consequently, U.S. denial of security assistance to China would not impact religious freedom because China has not relied on such assistance from the United States.

Options 10, 12, and 14: Economic Sanctions

Options 10, 12, and 14 will be discussed together as those provisions all refer to the imposition of economic sanctions by the United States against China, thereby denying U.S. financing of Chinese projects.¹⁴¹

135. 22 U.S.C.A. § 2304(b)(2000).

136. 22 U.S.C.A. §2304(a)(2).

137. 22 U.S.C.A. §2304(d)(2)(A).

138. *Id.*

139. 22 U.S.C.A. §2304(d)(2)(B).

140. 22 U.S.C.A. §2304(d)(2)(C).

141. These three options are as follows:

Option 10: Directing the Export-Import Bank of the U.S., the Overseas Private Investment Corporation, or the Trade and Development Agency to Deny the Issuance of Any Guarantees, Insurance, and/or Extensions of Credit to Any Government, Agency, Instrumentality, or Official that Violates Religious Freedom.

Option 12: Consistent with Section 701 of the International Financial Institutions Act of 1977, Directing U.S. Executive Directors of International Financial Institutions to Oppose and Vote Against Loans Primarily Benefiting Any Foreign Government, Agency, Instrumentality, or Official that Violates Religious Freedom.

Option 14: Prohibiting U.S. Financial Institution from Making Loans or Providing Credits Totaling More Than \$10,000,000 in Any 12-Month Period to Any Foreign Government, Agency, Instrumentality, or Official that Violates Religious Freedom.

Although withholding U.S. financing to Chinese projects presumably may be an effective means to counter human rights violations in China,¹⁴² its usage is unrealized because each time the United States contemplates suspending funding, it reverses itself.¹⁴³ A recent example involves the Chinese sale of ring magnets used to produce enriched uranium for nuclear warheads to Pakistan, from 1994 to 1995.¹⁴⁴ The Chinese Foreign Affairs Ministry denied any knowledge of such transfers, claiming that Chinese corporations could not consummate any transactions that violated China's export policy.¹⁴⁵ Thereafter, on behalf of then Secretary of State Warren Christopher, Undersecretary of State for Economic, Business and Agricultural Affairs Joan Spero transmitted a letter to the United States Export-Import Bank ("Ex-Im") requesting the suspension of U.S. financing for Chinese projects.¹⁴⁶ However, this denial of funding was short-lived as Ex-Im approved financing for two China projects in the same year (1996) that Spero issued the letter.¹⁴⁷ The State Department reversed itself because it determined that the Chinese authorities knew nothing of the China-Pakistan transfer of ring magnets.¹⁴⁸ Furthermore, China assured the State Department that it would bar any such future transfers and agreed to open dialogue on export control policies.¹⁴⁹ Also, suspending Ex-Im funding at the time would have meant that a \$120 million power plant project in China would have gone to European companies instead of Westinghouse, an American corporation.¹⁵⁰

When the United States threatens to impose economic sanctions only to reverse itself later, its cyclical dance amounts to the boy who cried wolf. These empty threats give China a license to continue to persecute Christians and other religious groups because Beijing has learned that those admonitions generally lack teeth.¹⁵¹

142. See Christy Cutbill McCormick, Comment, *Exporting the First Amendment: America's Response to Religious Persecution Abroad*, 4 J. INT'L LEGAL STUD. 283, 313 (1998).

143. See Cheney, *supra* note 97, at 26.

144. See *id.* at 19.

145. See *id.*

146. See *id.* at 20.

147. See *id.*

148. See *id.*

149. See *id.*

150. See John Maggs, *China May Get Money From U.S. For Plant Development Underscores Tension in U.S. Policy*, J. COM., May 20, 1996, at 1A.

151. Cheney, *supra* note 97, at 3.

Options 13 and 15: Trade Sanctions

Options 13 and 15 will be discussed together as both provisions refer to the U.S. imposition of trade sanctions against China; specifically, limiting and/or denying Chinese procurement of U.S. goods and vice versa.¹⁵²

The United States rarely has used trade sanctions against China to bargain for increased human rights, much less specifically for religious freedom.¹⁵³ As a result of the Tiananmen Square Massacre in June 1989, the U.S. government announced economic trade sanctions against China.¹⁵⁴ In response to such a blatant violation of human rights, the senior President Bush suspended all "Government-to-Government sales and commercial exports of weapons."¹⁵⁵ The suspension of all weapon sales to China at the time totaled \$600 million.¹⁵⁶ However, imposing economic sanctions in exchange for expanded human rights ended when the United States decided that "an influx of foreign money into the Chinese market ma[de] its bid as a better solution to solving human rights."¹⁵⁷

Trade sanctions, while probably effective,¹⁵⁸ never will materialize to expand religious freedom and other basic human rights. U.S. economic sanctions will impact American trade as much as they will Chinese commerce.¹⁵⁹ American businesses, recognizing the vast opportunities in the Chinese market, pressure the President to refrain

152. These two options are as follows:

Option 13: Ordering Appropriate U.S. Agencies to Deny Issuance of Licenses, Goods, and Technological Exports to Any Foreign Government, Agency, Instrumentality, or Official that Violates Religious Freedom Under the Export Administration Act of 1979, the Arms Export Control Act, the Atomic Energy Act of 1954, or Any Other Statute Requiring Prior U.S. Governmental Review and Approval as a Condition for the Export or Re-export of Goods or Services.

Option 15: Prohibiting the U.S. Government from Procuring or Entering into Any Contract for the Procurement of any Goods or Services from the Foreign Government, Entities, or Official that Violates Religious Freedom.

153. Cheney, *supra* note 97, at 3.

154. *Id.* at 13.

155. See *Crackdown in Beijing: Excerpts from Bush's News Session*, N.Y. TIMES, June 6, 1989, at A15.

156. See Bernard Weinraub, *Crackdown in Beijing: President Spurns Other Sanctions*, N.Y. TIMES, June 6, 1989, at A1.

157. Cheney, *supra* note 97, at 14-15.

158. See McCormick, *supra* note 142, at 316.

159. Cheney, *supra* note 97, at 23.

from imposing economic sanctions.¹⁶⁰ Also, imposing trade sanctions would directly harm the U.S. government, as China has increased trade with the United States and has even "become the leading buyer of U.S. Treasury Bills."¹⁶¹ Thus, it seems that the United States will use trade sanctions as a last resort to effect change in human rights, especially when it pertains to religious freedom.

B. Update on IRFA

As required by IRFA, the State Department issued its first annual report in 1999, followed by its second in 2000, on international religious freedom.¹⁶² These reports named China for two years in a row as one of the most repressive countries when it comes to oppressing Christians and other people of faith.¹⁶³ Not surprisingly, the Commission established by IRFA has found that the Chinese government regularly harasses churches that will not register and submit to official religious agencies.¹⁶⁴ The Commission recommends that U.S. diplomats discuss religious freedom in their interactions with Beijing.¹⁶⁵ Also, it encourages the U.S. government to raise awareness of religious persecution within the U.S. business community, to encourage the latter to promote human rights in countries where they engage in trade.¹⁶⁶

Despite the issuance of the IRFA reports as well as other U.S. efforts to counter religious persecution, Chinese officials show no particular concern over the matter.¹⁶⁷ On the same day that the Commission met with former President Clinton in 1999, two hundred Public Security Bureau police officers stormed the house church of well-known pastor Li De Xian in Guangzhou.¹⁶⁸ They arrested Pastor Li, his wife, and three others.¹⁶⁹ Just a week earlier, police officers demolished a shelter outside the same church while detaining Pastor

160. *Id.*

161. Steven Mufson, *China Sends Mixed Signals as Christopher Arrives; Beijing's Leadership Seeks Closer Relations, But Not if it Means Interference by U.S.*, WASH. POST, Nov. 20, 1996, at A21.

162. IRFA §102(b).

163. See DEP'T OF STATE 2000 REPORT, *supra* note 34.

164. *See id.*

165. *See id.*

166. *See id.*

167. Mindy Belz, *Taking on the Thugs*, WORLD, Nov. 6, 1999, at 18.

168. *Id.*

169. *Id.*

Li, his wife, and other believers.¹⁷⁰ After the attack, Pastor Li remarked it was the worst that he had encountered yet.¹⁷¹ He likened the scene around the church to the aftermath of an earthquake.¹⁷² The police have since detained Pastor Li on numerous occasions.¹⁷³ In April 2000, for three out of fifteen days, they forced him into a crouching position, his wrists and ankles shackled together so that he could not sleep or use the toilet.¹⁷⁴

Conclusion

While IRFA's measures may encourage other oppressive countries to honor religious freedom, it has little or no teeth at all in combating religious persecution in China. Although IRFA is valuable legislation, it is a paper tiger with respect to China because China generally does not respond well to the proposed demands outlined in IRFA. While the United States continually should reprimand China on its human rights record and threaten economic and/or trade sanctions when appropriate, the United States should not rely primarily upon these strategies to induce change in China.

Instead, the United States should hone in and exploit what China already has revealed as its Achilles' heel—namely, cultural exchanges between its citizenry and the international community.¹⁷⁵ As China ascends into the global economy, it recognizes that such exchanges are inevitable and possibly, necessary evils. Given China's acquiescence to cultural exchanges, the United States may face less resistance in utilizing this vehicle to promote religious freedom. Thus, the United States should encourage educational exchange programs, American business, and tourism in China. Instead of investing all of its energy in influencing the Marxist-Leninist ideology of CCP, the United States will find it more effective to have its own

170. *Id.*

171. *Id.*

172. *Id.*

173. *See also* DEP'T OF STATE 2000 REPORT, *supra* note 34.

174. *See id.*

175. *See Hearings*, *supra* note 23 (prepared statement of Frank Lu Si Qing, Director of Hong Kong-based Information Center for Human Rights and Democratic Movements in China and former political prisoner), at <http://www.uscirt.gov/hearings/16mar00/frankLuPT.php3> (last visited Oct. 1, 2001); *see also* Erik Eckholm, *China Clerics Deny Report Protestants are Bullied*, THE PLAIN DEALER, Sept. 24, 2000, at 3A, available at 2000 WL 5167140; *see also* Shao Zongwei, *Religious Freedom Ensured in China*, CHINA DAILY, Sept. 22, 2000, available at 2000 WL 25555495.

citizenry interact with individual Chinese people on a one-on-one basis. If any ideological revolution should occur, it will come from the inside out, within China's own population.

While the United States can and should encourage religious freedom in China, if there is to be any transformation, it will not be primarily because of American efforts, but rather, in spite of them. Although IRFA may be mostly ineffective in dealing with China, the push towards promoting cultural exchange is certainly a step in the right direction. Change will be a long and hard process as no overnight solution exists for a problem that has festered on and off for centuries.